

### REMARKS/ARGUMENTS

Claims 1-51 are pending in the present application.

This Amendment is in response to the Office Action mailed July 18, 2003. In the Office Action, the Examiner objected claim 37, and rejected claims 1-7, 10-15, 18-24, 27-32, 35-41, and 44-49 under 35 U.S.C. §102(b); and claims 8-9, 16-17, 25-26, 33,-34, 42,43, and 50-51 under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

#### *Claim Objections*

1. The Examiner objects to claim 37. In the Office Action, the Examiner states that in claim 37, the original claim language consisted of the word "advertise" and not "advertising" as previously presented. Applicants submit that the word "advertising" was mistyped in the previous response. Applicants now clarify that claim 37 was amended to replace "advertise" with "broadcast".

Applicants respectfully request that the Examiner withdraw the objection to claim 37.

#### *Rejections Under 35 U.S.C. § 102 and § 103*

1. In the Office Action, the Examiner rejected claims 1-7, 10-15, 18-24, 27-32, 35-41, and 44-49 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,090,011 issued to Fukuta et al. ("Fukuta"). Applicants respectfully traverse the rejections and contend that the Examiner has not met the burden of establishing a prima facie case of anticipation and obviousness.

Applicants reiterate the arguments presented in the previous response. In particular, Applicants contend that the cited prior art references, alone or in any combination, do not disclose, suggest, or render obvious broadcasting the congestion status to at least one other node.

In the Office Action, the Examiner states that Fukata discloses returning a congestion indicator to the transmission source of the packet, and thus another node in that network (Office Action, page 6, paragraph 20). Applicants respectfully disagree. First, a node sending a congestion indicator to the source (i.e., to itself) is not sending to another node. Second, the

claim language explicitly recites "broadcasting the congestion status to at least one other node in the network" (emphasis added.)

The Examiner states that "[t]he congestion notice Fukata discloses clearly advertises, broadcasts, indicates, or transmits this status to a different node for that node to operate accordingly ..." (Office Action, page 6, paragraph 20). Applicants respectfully disagree.

The full text of the portion of Fukata is repeated below for ease of reference:

"..when a congestion packets occurs in a switch with respect to an output line, the switch unist adds congestion indication information .. to a packet destined for the congested output line ... and operates to switch the resultant packet to an objective line interface unit so as to be sent out to the transmission source of the packet." (Fukata, Col. 4, lines 55-62).

In other words, the congestion indicator is sent BACK to the source of the packet as a notice that there is a congestion (Fukata, Col. 5, lines 3-6; lines 10-13). This is not the same as broadcasting the congestion status associated with a node to at least one other node as recited in Claim 1, 10, 18, 27, 35, and 44.

Therefore, Applicants believe that independent claims 1, 10, 18, 27, 35, 44 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a) be withdrawn.

***Conclusion***

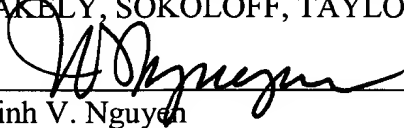
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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